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In re Application of :
Koch et al :
Application No.: 10/009,831 :
PCT No.: PCT/EP00/05256 :
Int. Filing Date: 07 June 2000 : DECISION
Priority Date: 17 June 1999 :
Attorney's Docket No.: 50063 :
For: SUPPORT CATALYST FOR OLEFIN :
POLYMERIZATION :

This decision is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," mailed 16 January 2003 which is being treated as a petition under 37 CFR 1.8.

BACKGROUND

On 07 June 2000, applicants filed international application PCT/EP00/05256 that claimed priority of earlier Dutch application which was filed 17 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 December 2000. A Demand for international preliminary examination was filed 17 November 2000. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 17 December 2001.

On 17 December 2001, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, a translation, and the basic national fee as required by 35 U.S.C. 371(c). These papers were assigned application number 10/009,831.

On 07 February 2002, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) indicating that an

oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notice set a two-month extendable time period for response.

On 09 January 2003, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909).

On 16 January 2003, applicant submitted the current petition which was accompanied by a copy of an executed declaration and a "Copy of Docket Page 2-18-219."

DISCUSSION

37 CFR 1.8 states, in part:

Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or

transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

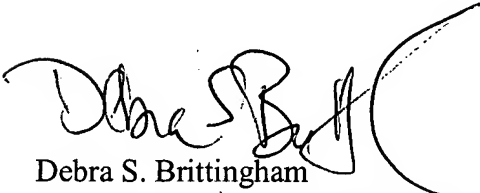
Applicants have informed the Office of the previous mailing, supplied an additional copy of the previously mailed declaration and the required statement. Therefore, the petition to withdraw the holding of abandonment is granted.

CONCLUSION


The petition to withdraw the holding of abandonment is **GRANTED**.

The **\$130** surcharge fee for filing the declaration after thirty months from the earliest priority date has been **charged** to applicants' **DEPOSIT ACCOUNT # 11.0345**.

Applicant is advised that, effective May 1, 2003, the Office has changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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